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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.980 OF 2007

Shivaji Kahnderao Matale Petitioner
versus
Nashik Mahanagar Palika Nashik
and others Respondents

Mr.S.P.Thorat for petitioner.

CORAM : A.S.OKA, J.

DATE : 06th March 2007

PC :

1. By this Writ Petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 22nd December 2006. The petitioner is the original plaintiff. The suit filed by the petitioner has been dismissed for default. There is a counter claim filed by some of the defendants. In the said counter claim, an application was made by the petitioner for rejection of the counter claim by invoking provisions of Order VII, Rule 11 of the Code of Civil Procedure, 1908. The contention raised in the application is that there is no cause of action for filing the counter claim and the

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valuation of the counter claim made for court fee and jurisdiction is incorrect. By the impugned order, the learned Trial judge has held that the preliminary issues on the basis of contentions raised by the petitioner in the application cannot be framed. However, the Trial Court has directed that the additional issues on the basis of the said contentions be framed. The learned Trial Judge has also observed that the said additional issues will be decided at the time of final hearing of the counter claim.

2. I find no fault with the discretionary order passed by the Trial Court. No case is made out for interference. Petition is rejected. All the contentions in Exhibit-114 filed by the petitioners are kept open. Hearing of the counter claim is expedited.

(A.S.OKA, J.)